IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 429 OF 2003
IN
SUMMARY SUIT NO. 244 OF 2003

Ashok Jain and another. ... Plaintiffs.

V/s.

Gaurang V. Doshi ... Defendant.

Ms.Kavita Shah for the plaintiffs.

S.H.Karim for the defendant.

CORAM : D.G. KARNIK, J.

DATED : 22nd February, 2005.

P.C. :

. Heard learned counsel for the parties.

. The plaintiffs advanced to the defendant a loan of Rs.4,00,000/-. Admittedly, the defendant has repaid to the plaintiffs a sum of Rs.4,00,000/-. The question is whether the defendant is liable to pay interest and, if so, whether appropriation towards Rs.4,00,000/- was proper. The defence of the defendant cannot be said to be sham, fictitious and illusory. It requires trial. Hence defendant is granted unconditional leave to defend the suit. The suit be transferred to the commercial causes. Defendant to file written statement within a period of one month.

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